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Human rights situation in Palestine and other occupied Arab territories

Human rights situation in the Occupied Palestinian Territory, including East Jerusalem

Report of the High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 34/30 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. It focuses on the practice of arbitrary detention by Israeli and Palestinian authorities. It covers the period from 1 November 2016 to 31 October 2017.

* The present report was submitted after the deadline in order to reflect recent developments.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 34/30, in which the Council requested the United Nations High Commissioner for Human Rights to report on the implementation of that resolution, with a particular focus on the factors perpetuating the arbitrary detention of Palestinian prisoners and detainees in Israeli jails, in consultation with the Working Group on Arbitrary Detention. The High Commissioner also examines the practice of arbitrary detention by the Palestinian authorities in the West Bank and Gaza. The report is aimed at providing an accurate picture of the various forms of arbitrary deprivation of liberty to which Palestinians are exposed in the Occupied Palestinian Territory. In his recommendations, the High Commissioner encourages all duty bearers to comply with related obligations under international law.

2. The report covers the period from 1 November 2016 to 31 October 2017. It is mainly based on cases monitored by the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as on information obtained by other United Nations entities operating in the Occupied Palestinian Territory and by Israeli and Palestinian non-governmental organizations (NGOs). As per Human Rights Council resolution 34/30, the report was prepared in consultation with the Working Group on Arbitrary Detention.

3. While the present report focuses on arbitrary detention, other reports of the Secretary-General and of the High Commissioner provide a more comprehensive analysis of the human rights situation in the Occupied Palestinian Territory, including as regards conditions of detention.[1]

II. Legal background

4. International humanitarian law and international human rights law apply in the Occupied Palestinian Territory, namely in Gaza and the West Bank, including East Jerusalem. The Occupied Palestinian Territory is a territory under belligerent occupation, to which the provisions governing occupation notably apply.[2] The jurisdiction and effective control exercised by Israel as the occupying Power are the basis for its human rights obligations within the Occupied Palestinian Territory. Those obligations are in line with the obligation of Israel, under the law of occupation, to protect the Palestinian population of the Occupied Palestinian Territory. Concurrently, the State of Palestine is bound by its human rights obligations regarding the entirety of the Occupied Palestinian Territory. The authorities in Gaza also bear human rights obligations given their exercise of government-like functions and territorial control.[3]

5. Arbitrary detention is prohibited by international human rights law and humanitarian law. Article 9 of the International Covenant on Civil and Political Rights guarantees the right to liberty and security of person and provides that no one shall be subjected to arbitrary arrest or detention.[4] Considered as arbitrary are deprivations of liberty that are contrary to international law provisions, mostly those relating to the right to a fair trial or other procedural guarantees,[5] as also provided by the law of occupation.[6] Unlawful confinement and wilfully depriving a protected person of the rights to a fair and regular trial

[1] See A/HRC/34/38, A/HRC/37/38 and A/HRC/37/43.

[2] As provided by the 1907 Hague Regulations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) and customary international law; see A/HRC/34/38, para. 10.

[3] See A/HRC/34/38, paras. 3–11, for more details on the applicable legal framework.

[4] See also Universal Declaration of Human Rights, art. 9.

[5] International Covenant on Civil and Political Rights, arts. 9 and 14; see also Human Rights Committee general comment No. 35 (2014) on liberty and security of person; and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (A/RES/43/173).

[6] Fourth Geneva Convention, arts. 66–75.

amount to grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), hence to war crimes.[7] In addition, protected persons shall only be detained only in the Occupied Palestinian Territory and the non-respect of this rule violates the prohibition of forcible transfer; another grave breach of the Fourth Geneva Convention and a war crime. [8]

III. Arbitrary detention in the Occupied Palestinian Territory

A. Introduction

6. The Working Group has identified five legal categories relating to arbitrary detention: (a) when there is no legal basis for the deprivation of liberty (category 1), (b) when the deprivation of liberty results from the exercise of fundamental freedoms, (c) when the violations of norms relating to the right to a fair trial are of such gravity as to give the deprivation of liberty an arbitrary character, (d) when migrants are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy, and (e) when the deprivation of liberty reflects discrimination, notably based on birth, national, ethnic or social origin, language, religion and political or other opinion.[9]

7. Based on those categories, and in view of the cases monitored by OHCHR during the reporting period, the present report is divided into two parts describing two sets of factors perpetuating arbitrary detention in the Occupied Palestinian Territory. In the first part, the High Commissioner examines cases of detention without apparent or legitimate grounds, or where the right to a fair trial is not guaranteed (categories 1 and 3). In the second part, the High Commissioner examines cases where individuals have been detained for exercising their fundamental freedoms (category 2).

8. Although of particular relevance to the present context, arbitrary detention on discriminatory grounds (category 5) is not addressed separately in this report, as it is likely to apply to most cases described therein. The Working Group has notably invoked detention on discriminatory grounds in its conclusions pertaining to several cases of detention of Palestinians by Israel.[10] The Secretary-General has also noted how the application of two different legal systems in the same territory, on the sole basis of nationality or origin, is inherently discriminatory and undermines the right to a fair trial.[11]

B. Detention without grounds or fair trial guarantees

9. This section focuses on cases of detention that are likely to be arbitrary due to the absence of any legal basis justifying the detention, or where there are no prospects for a fair trial. Given the frequent invocation of vague security grounds and the use of secret evidence in the Occupied Palestinian Territory, it is often impossible to determine whether the detention is based on a legitimate ground. The practice of administrative detention is also addressed in this section.

1. Detention without legitimate grounds or legal basis

10. To be in conformity with international human rights law, any deprivation of liberty must have a legal basis. Where no reasonable ground is invoked, the detention is considered as arbitrary. Arbitrary detention is practised by Israel, the State of Palestine and the authorities in Gaza.

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[7] Ibid., art. 147, Rome Statute of the International Criminal Court, art. 8 (2) (a) (vi).

[8] Fourth Geneva Convention, arts. 49 (1), 76 and 147, Rome Statute, art. 8 (2) (a) (vii).

[9] Methods of work of the Working Group on Arbitrary Detention (A/HRC/36/38).

[10] See opinions No. 31/2017, No. 15/2016 and No. 13/2016.

[11] See A/HRC/34/38, para. 40.

11. During the reporting period, OHCHR monitored cases where residents of Gaza appear to have been arrested and detained by the Israeli authorities without legal basis. The arrest of fishermen off the coast of Gaza remains of particular concern.[12] During the reporting period, 42 fishermen, including 3 children, were reportedly arrested by the Israeli navy (apparently within the Israeli-authorized fishing zone). The circumstances of the arrests, the focus of the interrogations and the fact that most of the fishermen were eventually released without charge strongly suggest that such arrests have no legal basis and are used to collect information about Palestinian groups in Gaza, as exemplified in the cases described below.

12. On 4 December 2016, the Israeli navy arrested two fishermen at sea, reportedly posing no threat to the Israeli navy at the time. One of the men remained in Israeli detention without being officially charged for more than two weeks, while his brother was immediately released. The former was reportedly accused of affiliation to an armed group and subjected to ill-treatment during his interrogation. He had access to legal counsel only 10 days after his arrest. The court ordered his release on 22 December 2016, without any charge. Once back in Gaza, he was summoned by the internal security agency, detained for three days and interrogated regarding his arrest and detention by the Israeli authorities.

13. OHCHR monitored the arrest of nine other fishermen between 21 February and 18 September 2017. All nine were arrested at sea by members of the Israeli navy, who opened fire on them and forced them to undress and jump into the water after intercepting their boats, which were eventually confiscated. Two fishermen sustained injuries during their arrest.[13] The fishermen were all taken to Ashdod before being transferred to Beit Hanoun/Erez crossing point, where the majority reported being interrogated, notably about Hamas and other groups, including armed groups. None was indicted and all were released on the same day. They all reported that, upon return to Gaza, they were detained and interrogated by the internal security agency for periods varying from a few hours to two days.

14. Most fishermen summoned and detained by the internal security agency following arrest by the Israeli navy reported having been ill-treated. OHCHR monitored another case of possible arbitrary detention for interrogation by the internal security agency during the reporting period, based on political affiliation (see para. 59 below).

15. In the West Bank, detention without legal basis has been reported in cases where Palestinian security forces refused — in violation of the Basic Law for the Palestinian Interim Self-Government Authority — to implement court orders to release detainees.[14] Such orders are often bypassed by rearresting a person on new charges, usually invoking gubernatorial powers under Jordanian law (see para. 25 below). This practice continues to be of concern, as confirmed by the Independent Commission for Human Rights, which reported having received 75 complaints relating to cases of continued detention by the Palestinian authorities despite the issuance of release orders during the reporting period.[15]

16. A troubling case of continued detention notwithstanding release orders is the detention, since 25 May 2017, of Shadi Nammoura, from Hebron. He was first detained by the General Intelligence Service in Hebron and then later in Jericho, on the order of the Governor of Nablus. The court ordered his release three times (on 30 May, 13 June and 3 August 2017) and each time, his continued detention — in conditions that gave cause for concern — was requested by the Governor, on the third occasion based on the need to protect the detainee from the Israeli Security Forces. Mr. Nammoura was released on 7 December 2017 and arrested by the Israeli Security Forces 11 days later. The practice of detaining individuals for their own protection, against their will, remains a concern,[16] as also shown by the case of Abuhlayyel Ammar Tawfiq, who was eventually released on 6 February 2017. He had been detained by the Preventive Security Services in Ramallah

[12] See A/HRC/34/36, para. 19; and A/71/364, para. 37.

[13] See A/HRC/37/38.

[14] See A/HRC/19/20, para. 42.

[15] Independent Commission for Human Rights, monthly reports. Available from http://ichr.ps/en/1/5.

[16] See A/HRC/31/40, para. 59; and A/HRC/28/80, para. 47.

since 6 November 2015 to protect him from the Israeli Security Forces after a friend of his reportedly committed an attack against Israelis in the West Bank. Mr. Tawfiq requested to be released on his own responsibility and, along with relatives, signed a waiver in July 2016. He was held against his will for a total of 15 months. Two months after being released by the Preventive Security Service, Mr. Tawfiq was arrested by the Israeli Security Forces.

2. Unlawful administrative detention practices

17. Administrative detention refers to the deprivation of liberty outside the context of criminal proceedings. It is usually based on an order issued by State executive authorities, generally without charges, indictment or trial before a criminal court. While not prohibited as such under international law, administrative detention is permitted only in exceptional circumstances and subject to stringent safeguards to prevent arbitrariness.[17] The Human Rights Committee considers that administrative detention presents severe risks of arbitrary deprivation of liberty.[18] Indeed, the practice may undermine most fundamental fair trial guarantees. Moreover, the uncertainty that such measures imply for the detainee in the absence of any charges, known evidence or trial, as well as of any foreseeable detention period, may amount to ill-treatment. Acknowledging the exceptional character of such measures, the law of occupation provides that a civilian may only be detained for imperative reasons of security.[19] The practice of administrative detention by both the Israeli and the Palestinian authorities is a major factor perpetuating arbitrary detention in the Occupied Palestinian Territory.[20]

Use of administrative detention by Israel

18. Concerns have repeatedly been voiced about the Israeli policy of administrative detention.[21] In 1998, the Human Rights Committee called on Israel to ensure that administrative detention be brought within the strict requirements of the International Covenant on Civil and Political Rights.[22] With no improvement evident by 2010, it called on Israel to refrain from using administrative detention, particularly for children.[23] In 2014, the Committee called on Israel to end the practice of administrative detention.[24] The Committee against Torture has also repeatedly concluded that the use by Israel of administrative detention, particularly for inordinately lengthy periods, violates the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[25] and called upon Israel to urgently end this practice.[26]

19. On 31 October 2017, Israel was reportedly holding 453 Palestinians in administrative detention, including at least 18 individuals detained on the basis of orders that were extended by 18 to 24 months.[27]

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[17] International Covenant on Civil and Political Rights, art. 9; and Fourth Geneva Convention, art. 78.

[18] Human Rights Committee general comment No. 35 (2014) on liberty and security of person, para. 15.

[19] Fourth Geneva Convention, art. 78; see also the International Committee of the Red Cross commentary thereto, p. 367.

[20] Provisions of article 14 of the International Covenant on Civil and Political Rights on the right to a fair trial are applicable where sanctions, because of their purpose, character or severity, must be regarded as penal, even if, under national law, the detention is qualified as administrative (opinion No. 31/2017, para. 30).

[21] See A/HRC/34/38, paras. 53 and 56; A/HRC/34/36, paras. 22–24; A/71/355, para. 20; A/71/364, paras. 34–35; A/HRC/31/40, paras. 37–43; A/HRC/31/43, paras. 42–43; A/69/347, paras. 28–29; A/HRC/28/45, paras. 49–50; and A/HRC/28/80, paras. 32–33. See also the position of Israel on its practice of administrative detention. Available from www.law.idf.il/602-5089-en/Patzar.aspx.

[22] See CCPR/C/79/Add.93, para. 21.

[23] See CCPR/C/ISR/CO/3, para. 7 (b).

[24] See CCPR/C/ISR/CO/4, para. 10 (b).

[25] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 16.

[26] See CAT/C/ISR/CO/4, para. 17; and CAT/C/ISR/CO/5, paras. 22–23.

[27] See www.hamoked.org/Prisoners.aspx; see also www.btselem.org/administrative_detention/statistics; and joint reporting by Palestinian Prisoners Commission, Addameer Prisoners Support and Human Rights Association, Al Mezan Center for Human Rights and Palestinian Prisoners Club.

20. The main legal basis for administrative detention by Israel in the Occupied Palestinian Territory is Military Order 1651,[28] which empowers military commanders to detain a person for a period of time not exceeding six months, if they have reasonable grounds to believe that detention is required for reasons related to regional or public security.[29] Detention orders may be extended for additional periods of up to six months, with no legal limit on the number of renewals, hence allowing for the indefinite detention of a person.[30] The legal basis for administrative detention can be found in two other Israeli laws: the Emergency Powers (Detention) Law of 1979[31] and the Incarceration of Unlawful Combatants Law of 2002.[32] While the former is the only one pertaining to East Jerusalem, the latter is generally used to detain Palestinians from Gaza. Both laws grant broad discretionary power to issue detention orders that can be indefinitely renewed.

21. These laws do not conform with international human rights law. Detention should not last longer than absolutely necessary and the overall length of possible detention should be limited.[33] International human rights law also provides that grounds for arrest or detention must be prescribed by law and should be defined with sufficient precision to avoid overly broad or arbitrary interpretation or application.[34] The vague and undefined reasons provided by Israeli laws to justify administrative detention effectively allow the Israeli authorities to use administrative detention as an alternative to criminal proceedings, mainly when there is not sufficient evidence to charge an individual, or when the authorities do not reveal the available evidence.[35]

22. Administrative detention is also used to keep individuals incarcerated following the completion of their sentence, as exemplified by the case of Bilal Kayed. Convicted in March 2003, he was completing a prison sentence of 14 and a half years when a 6-month administrative detention order was issued against him, 6 days before his expected release on 7 June 2016, on the ground that his membership of the Popular Front for the Liberation of Palestine would endanger security. He was eventually released on 13 December 2016, after a 71-day hunger strike.[36] As described in previous reports, numerous detainees have resorted to hunger strikes to protest against and raise attention regarding their indeterminate detention without formal charges.[37]

23. Although Israeli legislation provides for judicial review and guarantees the right to legal counsel, the opportunity to challenge detention is usually undermined by the fact that, in the vast majority of cases, evidence remains classified on grounds of State security.[38] Hence, neither the detainee nor the lawyer is informed of the allegations and detention grounds, undermining any effective right to challenge the detention. Human rights law prescribes that the detainee should at least have access to the essence of the evidence on which decisions are taken.[39] The High Commissioner remains deeply concerned by the policy of administrative detention by Israel on vague or undisclosed security grounds, in lengthy processes where individuals are deprived of core due process guarantees. In

[28] See Military Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651). Available from http://nolegalfrontiers.org/en/military-orders/mil01/67-security-provisions-chapter9-271-315 (English translation).

[29] Ibid., sect. 285 (A).

[30] Ibid., sect. 285 (B).

[31] See www.btselem.org/sites/default/files/1979_emergency_powers_law_detention_0.pdf.

[32] See www.hamoked.org/files/2011/240_eng.pdf.

[33] See Human Rights Committee general comment No. 35 (2014), para. 15.

[34] Ibid., para. 22.

[35] See www.btselem.org/administrative_detention/occupied_territories.

[36] See A/HRC/34/36, para. 23.

[37] See A/HRC/34/38, para. 53; A/71/364, para. 35; and A/69/347, para. 28.

[38] See Military Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651). Available from http://nolegalfrontiers.org/en/military-orders/mil01/67-security-provisions-chapter9-271-315 (English translation), sects. 290–291; see also Emergency Powers (Detention) Law of 1979, arts. 6 and 8. Available from www.btselem.org/sites/default/files/1979_emergency_powers_law_detention_0.pdf.

[39] See Human Rights Committee general comment No. 35, para. 15.

addition, the detention of Palestinians in Israel is in violation of the prohibition of forcible transfer of protected persons outside the Occupied Palestinian Territory.[40]

Authority of Palestinian governors to order detention in the West Bank

24. The Secretary-General and the High Commissioner have previously expressed concerns about administrative detention practices by the Palestinian authorities that amount to arbitrary detention.[41] While there is no record of the total number of administrative detainees in the West Bank, the Independent Commission for Human Rights recorded 97 cases of administrative detention during the reporting period.

25. According to Palestinian law, individuals cannot be deprived of their liberty, except on the basis of an order issued by a competent judicial body, as provided by the law.[42] However, reports of arrests and detentions upon the order of a provincial governor are of continuous concern.[43] Indeed, according to the Jordanian Prevention of Crimes Act of 1954, governors have the authority to arrest and detain individuals on the very general basis of maintaining public law and order.[44] As shown by cases monitored by OHCHR, the authorities have no apparent intention to charge or prosecute those arrested on such basis and may detain them for up to six months without the detention being reviewed by a judge or any other officer authorized by law to exercise judicial power.[45]

26. The routine practice of detention on a governor's authority is inconsistent with international law[46] and raises concerns of arbitrary detention, not least as governors have apparently been using such power mainly to detain political opponents.[47]

3. Violations of due process guarantees in criminal proceedings

27. Another factor perpetuating arbitrary detention is the violation of the right to a fair trial in criminal proceedings, when it is of such gravity as to give an arbitrary character to the deprivation of liberty. Through trial monitoring, OHCHR has identified several concerns about violations of fair trial rights in the Israeli justice system concerning Palestinians, as illustrated by the case of Mohammad el Halabi.

28. As previously reported,[48] the Head of the Gaza World Vision office, Mohammad el Halabi, was arrested at Beit Hanoun/Erez crossing point on 15 June 2016 on allegations of diverting humanitarian funds to support armed groups in Gaza. On 3 July 2016, a United Nations Development Programme contractor was also arrested at Beit Hanoun/Erez crossing point on similar grounds. Mr. El Halabi was denied access to a lawyer for almost a month while the United Nations Development Programme contractor's access to a lawyer was reportedly also delayed. Indeed, Israeli law allows investigation authorities to deny an individual arrested on suspicion of committing a security offence the right to meet with a lawyer for up to 21 days.[49] This provision is applicable to any investigation of security offences, as broadly defined in the law.

29. Delayed access to a lawyer often suggests that the detainee has been held incommunicado. In addition, Israeli law allows for detainees accused of a security offence to be banned from attending hearings.[50] Hence, they may be held incommunicado for weeks

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[40] Fourth Geneva Convention, art. 49.

[41] See A/HRC/34/38, para. 54; A/HRC/34/36, paras. 55–58 and 70–74; A/HRC/31/44, para. 78; and A/HRC/31/40, paras. 56–58 and 69–70.

[42] See Amended Basic Law of 2003, art. 11; and Penal Procedures Law of 2001, art. 29.

[43] See A/HRC/34/38, para. 54; A/HRC/34/36, para. 58; and A/HRC/31/40, paras. 56–58.

[44] Prevention of Crimes Act of 1954, art. 4; Administrative Divisions Regulation No. 1 of 1966.

[45] See A/HRC/34/36, para. 58.

[46] In 2014, a petition was submitted to the Palestinian High Court, challenging the constitutionality of the Jordanian law in question, and was reportedly dismissed on procedural grounds.

[47] See A/HRC/34/36, para. 58.

[48] Ibid., para. 21.

[49] Criminal Procedure Law (Powers of Enforcement — Arrest), 1996, art. 35 (b).

[50] Decisions made in ex parte hearings can also be concealed (Counter-Terrorism Law of 2016, arts. 48–51).

without seeing a judge, lawyer or family member and at the mercy of interrogators. Not only can incommunicado detention in itself amount to torture[51] but it also increases the risk of torture and ill-treatment due to isolation.[52]

30. During his interrogation, Mr. El Halabi was allegedly exposed to ill-treatment that may amount to torture. He was also reportedly exposed to threats by undercover informers acting as inmates and inducing detainees to confess. Acquisition of evidence under pressure or duress is of concern, as it notably undermines the fairness of the trial. OHCHR further observed how some detainees from Gaza testifying as witnesses in Mr. El Halabi's trial asserted that they had at some point confessed to allegations in similar circumstances. Although Israeli law provides for the audio and video recording of interrogations of detainees suspected of serious offences, the police and security agencies have been exempted from this requirement as regards Palestinians suspected of security offences since 2002, an exemption made permanent in 2017. The exemption has removed a key safeguard against the use of torture and ill-treatment to obtain confessions. According to international human rights law, any information obtained as a result of torture or other cruel, inhuman or degrading treatment shall not be invoked as evidence in proceedings.[53]

31. Mr. El Halabi's first hearing took place on 30 August 2016. The trial initially took place behind closed doors and the case was initially subject to a gagging order that also precluded the lawyer from sharing any information. The ongoing trial is public, except for the cross-examination of certain witnesses for alleged security reasons. In addition, an important part of the evidence is being kept secret by the prosecution. The use of privileged evidence, to which not even the detainee's lawyer has access, is of great concern in trials involving Palestinians. In view of the right of defence under international law, the detaining authority should provide all relevant information to the judge and the defence, including exculpatory information.[54] Mr. El Halabi's lawyers challenged the use of secret evidence in front of the Supreme Court, which — on 12 January 2017 — ordered part of the non-disclosed evidence to be shared with the defence. However, almost one and a half years after the arrest of Mr. El Halabi, the defence lawyer has still not managed to see all of the unprivileged evidence against his client, raising serious concerns as to his right to defence and to a fair trial.[55]

32. Since the beginning of Mr. El Halabi's trial, several additional charges have been brought against him as a part of the same case, following unsuccessful offers of plea bargains by the prosecution. The deals pertain to a few years of imprisonment, on the condition that the accused gives his agreement in that regard before the court starts examining classified evidence. The pressure exercised on suspects to agree to plea bargains — that imply pleading guilty to certain charges in return for what is usually a more lenient sentence — is extremely high.[56] In view of the minimal rate of acquittals of Palestinians before Israeli courts, lawyers encourage their clients to accept such deals, in order to get a lower sentence and avoid custody during lengthy trials.[57] Defendants who have continuously pleaded not guilty eventually concede to charges through a plea bargain, as

[51] See www.ohchr.org/Documents/Issues/Torture/UNVFVT/Interpretation_torture_2011_EN.pdf.

[52] A/HRC/6/17/Add.4, para. 24. See also http://stoptorture.org.il/wp-content/uploads/2015/10/When-the-Exception-Becomes-the-Rule-2010.pdf.

[53] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 15; and United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of their Liberty to Bring Proceedings Before a Court, guideline 12.

[54] The disclosure of information may be restricted to protect national security but has to be necessary and proportional to the end sought. See United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of their Liberty to Bring Proceedings Before a Court, guideline 13.

[55] According to the Working Group on Arbitrary Detention, the use of secret evidence might affect the right to a fair trial to such extent as to render the detention arbitrary. Communication provided by the Working Group to OHCHR, dated 5 January 2018.

[56] According to the Israeli State Attorney's 2016 report, 77 per cent of convictions were based on a plea bargain. Available from www.justice.gov.il/Units/StateAttorney/Documents/Annual-Report-2016.pdf (in Hebrew).

[57] See www.btselem.org/download/201506_presumed_guilty_eng.pdf.

was the case with Waheed al Bursh, who was released on 12 January 2017,[58] and Khalida Jarrar in 2016 (see para. 55 below).

4. Arbitrary detention of children

33. The detention of Palestinian children is of particular concern. As of 30 June 2017, 318 Palestinian children were in Israeli detention.[59] Between 1 November 2016 and 30 September 2017, the United Nations Children's Fund (UNICEF) documented 135 cases of detained children, including three under administrative detention.[60] After falling into disuse for almost four years, the Israeli practice of administrative detention of children resumed in October 2015.[61]

34. Previous reports on the arrest and detention of Palestinian children reflected concerns relating to the lack of adherence to international standards by Israel.[62] The military justice system appears particularly problematic regarding respect of procedural guarantees. Interrogations of children are conducted in the absence of parents, close relatives or a lawyer, and are not audio-visually recorded.[63] Children detained under military orders are usually not promptly informed, in a language that they understand, of the charges against them, and they may be detained for up to four days before being brought before a military judge.[64] According to UNICEF, in almost 10 per cent of the cases of detention of children monitored between 1 November 2016 and 31 September 2017, the children reported having been held in solitary confinement for periods ranging from 6 to 20 days. In over 65 per cent of the cases monitored by the NGO Defence for Children International — 66.2 per cent in the West Bank and 88.5 per cent in East Jerusalem — children were shown, or made to sign, documentation written in Hebrew, a language that they usually do not understand.

35. During the reporting period, OHCHR continued to monitor cases where it appears that Palestinian children were arrested and detained in violation of the Convention on the Rights of the Child.[65] According to the Convention, the detention of children should be used only as a measure of last resort and for the shortest appropriate period of time, and the best interest of the child should be a primary consideration.[66] The Secretary-General previously noted that the large number of Palestinian children in Israeli detention seemed incompatible with its use as a measure of last resort.[67]

36. On 19 March 2017, Sofyan, an 8-year-old boy from the Old City of Hebron, was arrested by Israeli soldiers as he was walking in the street near the settlement of Kiryat Arba to retrieve a toy he had dropped on his way to visit his grandparents. He was reportedly approached and grabbed from behind by an Israeli soldier, who then forcibly took him from house to house insisting that he identify alleged stone-throwers.[68] He was released after an hour.

37. On 7 April 2017, 17-year-old Musa Hammad was arrested at night by the Israeli Security Forces and brought to Ofer Prison, where he was interrogated about a car ramming

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[58] See A/HRC/34/36, para. 21, and www.ps.undp.org/content/papp/en/home/presscenter/pressreleases/2017/01/04/undp-statement-attributable-to-a-undp-spokesperson-on-waheed-al-bursh-case.html.

[59] Data provided to the United Nations Children's Fund (UNICEF) by the Israel Prison Service.

[60] According to statistics compiled by B'tselem, there were two children in administrative detention at the end of June 2017. Available from www.btselem.org/administrative_detention/statistics.

[61] See A/HRC/31/40, para. 41; A/71/364, para. 34.

[62] See A/HRC/34/38, paras. 56–57; A/HRC/34/36, para. 19–20 and 25–30; A/HRC/31/40, paras. 38–43; A/71/364, paras. 33–37; and A/70/351, para. 48.

[63] See CRC/C/ISR/CO/2-4, paras. 35 and 74.

[64] Ibid., paras. 73–74; and www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf.

[65] Convention on the Rights of the Child, art. 37 (b); see A/HRC/34/38, para. 58.

[66] Convention of the Rights of the Child, arts. 3 (1) and 37 (b).

[67] See A/71/86, para. 24.

[68] See Gili Cohen, "Palestinian mother says Israeli soldiers forced 8-year-old son to help nab stone throwers", *Haaretz*, 23 March 2017. Available from www.haaretz.com/israel-news/1.779173.

attack that his brother had allegedly conducted. Musa, who denied any knowledge of the attack, reported having been ill-treated during his arrest and detention. He was held for two months in administrative detention and consequently missed his high-school exams.

38. During the reporting period, the Working Group issued an opinion concerning the detention of a 12-year-old Palestinian boy from East Jerusalem, concluding that the non-observance of procedural guarantees was of such gravity as to give the deprivation of liberty an arbitrary character.[69] It is not the first time that the Working Group has qualified as arbitrary instances of Palestinian children detained by Israel.[70] Child detention by Israel might also be considered as arbitrary as it does not appear to be used as a measure of last resort, as required by the Convention on the Rights of the Child.

39. Between 1 January and 31 October 2017, the Palestinian authorities in the West Bank reportedly arrested and detained 335 children.[71] This high figure raises concerns as to whether child detention is being used as a measure of last resort in the West Bank.

C. Detention for exercise of guaranteed fundamental freedoms

40. The second legal category identified by the Working Group appears to be particularly relevant in the present context. All duty bearers have indeed continued to resort to arbitrary detention during the reporting period, mainly in order to curtail political dissent or the expression thereof and to impede the work of journalists and human rights defenders. Fundamental freedoms, such as the freedoms of expression, peaceful assembly and association, may be restricted, but only as provided by the law and necessary for the protection of the rights and freedoms of others, as well as for the protection of national security, public safety, order, health or morals.[72]

1. Freedom of expression on social media

41. During the reporting period, numerous Palestinians were arrested and charged by the Israeli authorities for incitement on Facebook.[73] Situations underlying these charges range from the posting of a picture of a Palestinian killed by the Israeli Security Forces during clashes, to the use of language that could be classified as hate speech. Based on files examined by OHCHR, it is questionable in a number of cases whether the effective incitement potential and the suspect's criminal intent are sufficiently evident to justify criminal liability. It is not unusual that — shortly before the completion of a sentence for incitement, often based on a plea bargain — a military order is issued to prolong the detention based on security arguments. While some cases may seem justified, it appears that there is a real risk for Palestinians of arrest on grounds of alleged incitement while legitimately exercising their right to freedom of expression on social media.

42. On 24 June 2017, the so-called Palestinian cybercrime law was adopted by Presidential Decree No. 16 of 2017. While it might be a necessary step to regulate the commission of crimes via the Internet, the law raises strong concerns about its potential to curtail free speech. It notably criminalizes the publication of data — and the creation of websites intended to publish such data — that violates public morality and public order, endangers community safety, or insults holy sites, religions and beliefs and family values. Those overly broad terms have the potential to be interpreted to excessively undermine freedom of expression. The law was adopted within a general context of restrictions on

[69] See opinion No. 3/2017, para. 41.

[70] See opinions No. 13/2016 and No. 24/2016.

[71] Data provided to OHCHR by the Palestinian police.

[72] International Covenant on Civil and Political Rights, arts. 19, 21 and 22; see also Human Rights Committee general comment No. 34, paras. 21–36.

[73] According to the Palestinian Prisoners Commission, Addameer Prisoners Support and Human Rights Association, Al Mezan Center for Human Rights and Palestinian Prisoners Club, 470 indictments based on Facebook posts were issued from 1 October 2015 to 31 October 2017 (including 220 in 2017).

freedom of expression[74] and civil society was not consulted regarding its drafting.[75] This law served as the basis for the arrest and detention of journalists and human rights defenders (see paras. 51–52 below). During the reporting period, 77 cases of arrests in violation of guaranteed freedoms were referred to the Independent Commission for Human Rights.

43. In Gaza, OHCHR monitored cases of individuals arrested and detained for posting opinions on social media that could be considered to be critical of the Gaza authorities. In all these cases, the individuals were released without charge after a few days or weeks, upon signing commitments to, notably, uphold the law and refrain from public criticism. Most of these cases monitored by OHCHR included allegations of ill-treatment during interrogation.

44. On 30 May 2017, a teacher was arrested by the internal security agency for a post on social media expressing disapproval of an official for stating that Gaza was a prosperous place. He was released after four days. On 4 July 2017, another Palestinian man from Gaza — well known for his critical stance against the authorities in Gaza — was arrested by the internal security agency on accusations of incitement after having called on social media for a protest against the electricity crisis. He was released after 12 days. OHCHR also monitored the case of an individual detained for having allegedly participated in the popular protests against the electricity crisis in January 2017. In another case, on 19 April 2017, Mahmoud Sulieman Mohammad al Ziq, the Secretary-General of the National Work Committee in Gaza, known for his critical position against the authorities in Gaza, was assaulted and kidnapped by unidentified men. He was advised to refrain from talking about politics, including in relation to the electricity crisis, before being released on the same day.

45. On 27 April 2017, a social media activist and member of the Popular Front for the Liberation of Palestine was arrested by the internal security agency, reportedly for having posted an excerpt from a novel by a Palestinian writer about the plight of Palestinian refugees. He was detained for two days. His access to a lawyer and contact with his family were delayed and he was reportedly subjected to ill-treatment.

2. Journalists and human rights defenders

46. All duty bearers have been resorting to the arrest and detention of journalists and human rights defenders. These cases may amount to arbitrary detention as the practice was most likely motivated by the exercise of the individuals' rights to freedom of expression and assembly.

47. Omar Nazzal, a Palestinian journalist and member of the Palestinian Journalists Syndicate, was arrested by the Israeli Security Forces on 23 April 2016, as he was about to cross the Al-Karameh/Allenby/King Hussein Bridge to represent the Syndicate at a meeting in Sarajevo.[76] The initial administrative detention order was for four months and was extended three times, up to a total of 10 months. Mr. Nazzal was eventually released on 20 February 2017. His detention was based on his alleged affiliation to the Popular Front for the Liberation of Palestine as a threat to the security of Israel. However, he was not only interrogated about his political affiliation, but also about his work as a journalist and his membership of the Syndicate. In a decision issued on 24 May 2016, the military judge approved the administrative detention, based on the fact that the detainee could not be tried under criminal procedure because of the confidential nature of the evidence. This may suggest that administrative detention is used as an alternative to criminal proceedings, in contradiction of international law.[77]

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[74] Twenty-seven websites — mainly linked to Hamas or opposition leader Mohammad Dahlan — were closed by the Attorney General in June 2017 and remain offline at the time of writing (see A/HRC/37/38).

[75] Following strong criticism by civil society, the Palestinian Authority agreed to revise the law. This process was ongoing at the time of writing.

[76] See opinion No. 31/2017.

[77] Fourth Geneva Convention, art. 68, and 1958 ICRC Commentary thereto.

48. Hasan Safadi, a Palestinian journalist and media coordinator with the NGO Addameer Prisoners Support and Human Rights Association, remained in administrative detention during the reporting period. His arrest by the Israeli Security Forces, on 1 May 2016, at the Al-Karameh/Allenby/King Hussein Bridge border crossing on his way back from an Arab youth conference in Tunisia, was related to his visit to Lebanon 15 months earlier. As he was set to be released on bail on 10 June 2016, a six-month administrative detention order was issued against him, which was renewed twice during the reporting period even though he had been sentenced to three months' imprisonment on 27 October 2016. Mr. Safadi was finally released on 7 December, having spent more than a year and a half in administrative detention.[78]

49. Another Palestinian human rights defender who remained in Israeli administrative detention during the reporting period is Hassan Karajah, youth coordinator for the Stop the Wall movement. Released in 2014 after serving a 22-month sentence for having visited Lebanon, he was rearrested on 12 July 2016 for alleged affiliation to the Popular Front for the Liberation of Palestine and to Al-Hirak al-Shababi, a Palestinian youth movement outlawed by Israel on 11 July 2016 for alleged involvement in terrorist activities against Israel. Mr. Karajah was released on 9 November 2017. Under the cover of legality, it appears that administrative detention is used by Israel to detain Palestinians in order to sanction the exercise of guaranteed freedoms, on the ground that it might prejudice the security of Israel.

50. As stated by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and the Special Rapporteur on the situation of human rights defenders on 7 July 2017,[79] the situation of Issa Amro, a Palestinian human rights defender who runs the Youth Against Settlements organization in Hebron, remains of concern. A well-known advocate for non-violence, Mr. Amro has been subjected to regular harassment and arrests by the Israeli Security Forces, most recently on 29 February 2016.[80] His first hearing at Ofer Military Court took place on 23 November 2016. His indictment includes 18 charges, some of them going back to 2010. Mainly repetitive, the charges include alleged obstruction, insult and assault of soldiers, incitement and participation in assemblies without a permit. The reported facts behind the charges appear ludicrous within the context of peaceful demonstrations and the heavy military presence in Hebron. On 19 February 2017, the court dismissed the defence's claim that prosecuting Mr. Amro on such old charges constituted an abuse of justice designed to halt his activity as a human rights defender. Trial monitoring by OHCHR reveals that the Israeli Security Forces and the military prosecutors do not distinguish between violent and non-violent protest, incitement and the legitimate exercise of freedom of expression and that free speech and peaceful demonstrations are considered as acts disturbing the peace or harming public order.[81]

51. On 4 September 2017, while on trial before the Israeli military court — a process which was ongoing at the time of writing — Mr. Amro was arrested under the newly promulgated cybercrime law by the Preventive Security Service. His arrest resulted from his calling into question, on social media, the arrest of the director of Al-Hurriya radio station, Ayman Al-Qawmeh, by the Palestinian Authority. Mr. Amro believes that his arrest might be linked to his exposure of a number of Palestinian officials concerning corruption issues, as well as to his candidacy for the latest Palestinian municipal elections. He was released on bail on 10 September 2017 and — at the time of writing — was awaiting a final court decision. Mr. Amro's case is emblematic insofar as it illustrates the risks that human rights defenders face regarding arrest and prosecution by both the Israeli and the Palestinian authorities.

52. On 9 August 2017, six journalists were arrested by the General Intelligence Service under the cybercrime law in Hebron, Bethlehem and Nablus. They were released six days

[78] Hassan Safadi was released on 7 December 2017.

[79] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21855&LangID=E.

[80] See A/71/355, para. 33; and A/HRC/34/36, para. 47.

[81] Military orders limit freedoms of expression and assembly (Military Order 1651, sect. 251 (b), and Order No. 101 Regarding the Prohibition of Acts of Incitement and Hostile Propaganda).

later, as a result of pressure brought to bear by the Palestinian Journalists Syndicate. They were reportedly interrogated about the publication of information that fell under the broad scope of the cybercrime law and that could affect the security of the Palestinian Authority. However, no indictment was issued against them. Interviewed by OHCHR, the journalists believe their arrest was linked to the political divide between the West Bank and Gaza and to the arrest of a journalist in Gaza as described in the next paragraph.[52]

53. A Palestinian television reporter was arrested by the internal security agency in Gaza on 16 June, on allegations of collaboration with the Palestinian Authority. His detention for almost two months, as extended by the military prosecuting authority, was not based on any judicial order. He was denied access to a legal representative within the detention facility and first met his lawyer in court one month after his arrest. He was eventually released on $200 bail on 13 August 2017. There were also concerns that he had been subjected to ill-treatment during his detention.

54. After the Gaza authorities announced, on 24 April 2017, that they would take measures against individuals and institutions circulating rumours, a journalist from Gaza City was arrested on 25 April and detained until the next day for allegedly circulating fake information and rumours in the Palestinian media. He was released after undertaking in writing not to undermine law and order by spreading rumours. He also published a corrigendum and apologized to his readers.

3. Political affiliation

55. Palestinian civil society leaders Khalida Jarrar and Khitam Saafin were arrested by the Israeli Security Forces on 2 July 2017, during night raids on their homes, for their alleged membership of the Popular Front for the Liberation of Palestine, a claim that both women deny. Ms. Saafin is the president of the union of Palestinian women's committees, an organization that works for the community-based economic and social development of women in the West Bank and Gaza. Ms. Jarrar is a member of the Palestinian Legislative Council and an outspoken critic of the Israeli occupation. She is also a member of the board of directors of the Addameer Prisoners Support and Human Rights Association and of a national Palestinian committee for the follow-up with the International Criminal Court. Neither the detainees, nor their lawyers, have had access to the material against them, which is being held secret by the court. Ms. Saafin was released on 2 October 2017, after completing a three-month administrative detention order. Ms. Jarrar's six-month detention order expires on 1 January 2018.[53]

56. On 9 March 2017, Samira Halayqa, another Palestinian Legislative Council member, was arrested by the Israeli Security Forces during a night raid. Transferred to Ofer Prison, she was reportedly interrogated regarding her alleged affiliation to Hamas during the 2006 election and her political opinions as expressed on social media. She was charged with incitement and participation in activities organized by Hamas. She rejected those charges, which, according to her, were related to her involvement in legitimate activities, such as participation in peaceful gatherings calling for the respect of Palestinians' rights. The court ordered her release twice for lack of evidence. It was only after a third order that she was eventually released on bail on 9 May 2017. At the time of writing, hearings relating to Ms. Halayqa's case were ongoing. There are concerns that she was ill-treated during her arrest and detention and denied proper medication.

57. In the West Bank, there are concerns about the Palestinian authorities arresting individuals who oppose their policies. On 31 August 2017, Wahid Abu Mariya, known for his opposition to the Palestinian Authority, was arrested by the joint Palestinian security forces — on the orders of the Preventive Security Services — at his home in the Hebron

[52] See A/HRC/37/38, para. 60, for summary of another case of possible arbitrary detention of a journalist.

[53] Ms. Jarrar was detained for 14 months between 2015 and 2016, as she was facing trial for alleged membership of the Popular Front for the Liberation of Palestine. The decision of the military court to release her on bail was reversed following an appeal by the prosecution. She was released in June 2016 after accepting a plea bargain; see also Working Group opinion No. 15/2016.

Governorate. He was detained by the General Intelligence Service, military intelligence and the Preventive Security Services in Jericho, until his release on 21 September 2017, four days after the court ordered his release, without indictment. His arrest and incommunicado detention for four days raise concerns as to ill-treatment, including torture during interrogation.

58. In Hebron, several people were arrested while participating in peaceful demonstrations, mainly for alleged affiliation to the group Hizb ut-Tahrir, an Islamist organization critical of the Palestinian Authority. On 11 February 2017, the Preventive Security Services arrested approximately 50 persons in the context of a demonstration. While forcibly dispersing the crowd, they reportedly assaulted and arrested dozens of participants and passers-by, who were all released within 24 hours. The same day, leading figures of Hizb ut-Tahrir were also arrested at checkpoints while entering the city. They were held by the General Intelligence Service in Hebron and later transferred to Jericho, where they were detained for between 7 and 15 days without being indicted. A similar operation involving the arrest of individuals allegedly affiliated to Hizb ut-Tahrir took place on 24 February 2017, with two individuals reportedly being detained by the General Intelligence Service for over a month.

59. In Gaza, the internal security agency has also been detaining individuals on the basis of their political affiliation. On 13 April 2017, a woman was arrested by the internal security agency and detained for 10 days, during which period she was reportedly interrogated on her political affiliation to Fatah. She was released without being officially charged. The arrest and detention of members of Salafist groups, whose strict version of political Islam is perceived as a threat by the Hamas regime, continued during the reporting period.[84] In December 2016, the security forces in Gaza launched a campaign and arrested dozens of members of Salafist groups. Other members were arrested during a second campaign launched after a suicide bomb attack on 17 August 2017. Many of them, including children, are currently being held by the internal security agency and some have, to date, not been charged.

60. OHCHR documented the following two cases of arrest based on allegations of affiliation with Salafist groups. On 19 December 2016, a man from Rafah was arrested during a joint operation of the internal security agency and the Izz al-Din al-Qassam Brigades. He appeared before the military court on 12 February 2017, where the prosecutor was not in a position to provide any evidence against him. He was eventually released on 26 April 2017 without being officially charged. He reported having been subjected to ill-treatment during his interrogation. Another man from Gaza City was reportedly arrested on 11 December 2016 by masked men belonging to the internal security agency. Although the military court ordered his release on bail on 20 February 2017, the internal security agency refused to implement the order until 12 April 2017, following the intervention of the Director of the Security Forces. At the time of writing, five hearings had taken place and a decision was pending.

IV. Conclusion and recommendations

61. **The present report outlines the high risk that Palestinians face of being arbitrarily deprived of their liberty, both by the Israeli Security Forces and the Preventive Security Services. This is especially the case for Palestinians openly opposing the Israeli occupation, or the policies of their government in the West Bank or in Gaza. Journalists and human rights defenders have been particularly targeted within this context. Cases monitored by OHCHR show how Palestinians risk being arrested for having participated in peaceful protests, questioned acts of their own government — including on social media — or for alleged political affiliation.**

62. **While Israeli legislation allows for indefinite administrative detention, Palestinian safeguards against the arbitrary deprivation of liberty are bypassed**

[84] See A/HRC/28/80, para. 53.

through the use of executive powers. Administrative detention is used by both the Israeli and the Palestinian authorities to circumvent the national criminal justice system in order to detain individuals for vague or undisclosed security reasons, against whom evidence is insufficient, or who are due to be released. Cases monitored by OHCHR reveal how all duty bearers blatantly disregard the principle of fair trial and due process guarantees, particularly when an individual is deemed to endanger national security, public order or political cohesion, or has information of interest to the authorities.

63. Palestinians, including children, are subjected to arbitrary arrest and detention. Detainees' lack of knowledge of the grounds for detention and its length further violates rights inherent to human dignity, in addition to the obligations of Israel — as the occupying Power — to treat the Palestinian population humanely at all times. It is of serious concern that, in most cases, detention appears to be motivated by discriminatory grounds, including religion, national origin, birth or other status and political or other opinion.

64. Human rights law prescribes that anyone who has been the victim of unlawful arrest or detention should have an enforceable right to compensation.[35] However, there is no realistic way for Palestinian victims of arbitrary detention to seek redress, as their detention is usually covered by the seal of legality of a court ruling or a decision of the executive.

Recommendations to all duty bearers

65. All violations and abuses of the human rights of Palestinians must immediately cease and be promptly, impartially and independently investigated; those responsible must be held accountable and the victims provided with effective redress. All duty bearers and parties must respect international law and comply with their obligations and responsibilities under international human rights law and international humanitarian law.

66. All duty bearers must end their practices amounting to arbitrary detention, in particular they should:

(a) End the practice of administrative detention and ensure that all administrative detainees are promptly charged or released;

(b) Ensure that the rights of detainees are respected, including all rights inherent to a fair trial, including the right to defence and not to be tortured or ill-treated;

(c) Ensure that all children are treated with due consideration for their age and detained only as a last resort and, if so, for the shortest possible time, and for the purpose of rehabilitation;

(d) Respect, protect and fulfil the rights to freedom of expression, opinion and peaceful assembly and remove all unlawful restrictions to these rights from statutory law;

(e) Ensure that the rights of journalists and human rights defenders in the Occupied Palestinian Territory are respected and protected and that they can conduct their activities without harassment or being subjected to legal proceedings in violation of international human rights law;

(f) Ensure that victims of arbitrary detention are provided with appropriate compensation.

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[35] International Covenant on Civil and Political Rights, art. 9 (5).

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Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report of the United Nations High Commissioner for Human Rights*

Summary

In the present report, the United Nations High Commissioner for Human Rights describes the expansion of the settlement enterprise of Israel, examines the existence of a coercive environment in occupied East Jerusalem, and addresses issues relating to Israeli settlements in the occupied Syrian Golan. The report covers the period from 1 November 2016 to 31 October 2017.

* The present report was submitted after the deadline in order to reflect the latest developments.

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I. Introduction

1. The present report, submitted to the Human Rights Council pursuant to its resolution 34/31, provides an update on the implementation of that resolution from 1 November 2016 to 31 October 2017. It is based on monitoring and other information-gathering activities conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and on information provided by other United Nations entities in the Occupied Palestinian Territory, and from Israeli and Palestinian non-governmental organizations and civil society in the Occupied Syrian Golan. It should be read in conjunction with recent relevant reports of the Secretary-General and of the High Commissioner to the General Assembly and to the Council (A/72/564, A/72/565, A/HRC/37/38 and A/HRC/37/42). The quarterly updates of the Secretary-General presented to the Security Council on the implementation of Council resolution 2334 (2016) also provide relevant information.[1]

2. During the period under review, the Israeli settlement enterprise continued unabated in the West Bank, including East Jerusalem, with significant new developments. Settlement expansion accelerated, doubling the settlement housing advancement in Area C and East Jerusalem when compared with the previous reporting period, despite a slowdown in the commencement of new construction. The Government of Israel declared that establishing settlements in the West Bank was a natural right of Israeli citizens.[2] Conditions contributing to a coercive environment, including a large number of demolitions, forced evictions and acts of settler violence, remained a serious concern. The High Commissioner examines the developments on settlement expansion and the creation of a coercive environment in occupied East Jerusalem.

II. Legal background

3. International human rights law and international humanitarian law are concurrently applicable in the occupied Palestinian territory, namely Gaza and the West Bank, including East Jerusalem. In particular, Israel is bound by the obligations of an occupying Power as set out by international humanitarian law. A detailed analysis of the legal framework in relation to the Occupied Palestinian Territory and the occupied Syrian Golan is contained in recent reports of the Secretary-General (A/HRC/34/38 and A/HRC/34/39).

III. Activities related to settlements

4. During the period under review, a sharp increase in settlement planning was witnessed, despite a slowdown in the actual commencement of new construction. Significant political proposals, including draft laws aimed at "regularizing" settlement outposts and changing the boundaries of Jerusalem, were presented, advanced or adopted. Demolitions and evictions of Palestinians in Area C continued.

A. Settlement expansion

1. Land designation, planning, zoning and tenders

5. Settlement planning accelerated, with plans for almost 10,000 housing units advanced for construction in Area C and East Jerusalem – more than double the number during the previous reporting period. Also included in the plans were some 6,500 housing units in

[1] Available from the webpage of the Office of the United Nations Special Coordinator for the Middle-East Peace Process at https://unsco.unmissions.org/security-council-briefings-0.

[2] The preliminary response of the Government of Israel submitted to the High Court of Justice on 21 August 2017 to the petition against the "Regularization" Law is available from https://s3-eu-west-1.amazonaws.com/files.yesh-din.org/חוק+ההסדרה/Govenment+response+to+regulation+law+petition.pdf (in Hebrew).

Area C, about 300 of them reaching the final stage of approval. In East Jerusalem, some 3,100 housing units were advanced, about 800 of which reached the final stage of approval.

6. According to information obtained from the Office of the United Nations Special Coordinator in the Occupied Territories, during the period under review, 18 tenders for a total of 3,166 housing units in West Bank settlements were announced, as against only five tenders for 673 housing units during the previous reporting period. As at December 2017, only two of the tenders for a total of 49 units had been published and opened for bidding. No tenders were issued for East Jerusalem settlements. Ir Amim, a non-governmental organization, informed OHCHR that Israeli authorities conditionally approved building permits for 176 housing units in Nof Tzion, in the heart of the East Jerusalem neighbourhood Jabal Al Mukkaber, pending documentation proving land ownership. If approved, the expansion would make Nof Tzion the largest settlement within a Palestinian neighbourhood in East Jerusalem.

7. On 28 May 2017, the Government of Israel established a new settlement, Amihai, advancing hundred housing units for 41 families evicted from the Amona outpost (A/72/564, para. 6). The Government is expected to spend 160 million shekels on the project, including 40 million in compensation to the evicted settlers.[3]

8. In October, media sources reported that Israel had approved building plans for 31 settlement units in the Beit Romano settlement in Hebron old city. If realized, it would be the first time Israeli settlements are built within the city area in 15 years. Also in October, the Israeli Civil Administration approved the construction of a new settlement of 86 housing units outside Kochav Yaacov settlement, for the settlers of Migron, an evacuated outpost.[4]

2. Settlement construction

9. According to data obtained from the Israeli Bureau of Statistics, the rate of construction starts in Area C settlements witnessed a decline of more than 50 per cent during the first three quarters of 2017 (1,120 units in nine months) as against 2016 (3,027 units in 12 months). In East Jerusalem, building permits were issued for the construction of 770 housing units in Gilo and for constructions in Ramat Shlomo, Pisgat Ze'ev and Ramot.[5]

B. Consolidation of settlements

1. Unilateral changes to the boundaries of the Municipality of Jerusalem

10. In addition to the consolidation and expansion of settlements in the West Bank, which undermine the future implementation of a two-State solution (A/HRC/34/38, para. 15), Israeli lawmakers continued to promote legislative steps to change the boundaries of the Municipality of Jerusalem. An amendment to the Basic Law: Jerusalem, Capital of Israel passed a first reading in the Knesset on 27 July 2017.[6] The bill further constrains territorial concessions of any part of Jerusalem to a "foreign entity" by requiring a qualified majority of two thirds in the Knesset. At the same time, the bill encompasses further amendments to the Basic Law that would, inter alia, allow future changes to the municipal borders of Jerusalem, including the placing of Palestinian neighbourhoods under separate municipal authorities.

11. Another legislative initiative with direct implications for the boundaries of Jerusalem is the "Jerusalem and its Daughters" bill,[7] which aims at including the settlements of Ma'aleh Adumim, Beitar Illit, Gush Etzion, Efrat and Givat Ze'ev under the

[3] Yotam Berger, "Israel's PM seeks huge budget hike for relocation of West Bank settlement", *Haaretz*, 18 August 2017.

[4] Ibid.

[5] Office of the United Nations Special Coordinator for the Middle East Peace Process, Security Council briefing 20 June 2017 (2334).

[6] On 2 January 2018, a modified version of amendment No. 2 to the Basic Law passed the second and third readings.

[7] As at November 2017, the bill was pending a vote before the Ministerial Committee for Legislation.

jurisdiction of Jerusalem Municipality as "sub-municipalities". The bill would also extend the status of sub-municipalities to the Palestinian neighbourhoods of Shu'fat Refugee Camp, Anata and Kufr Aqab, all part of the Jerusalem Municipality but located beyond the wall. Discussion of the bill by the Government was blocked by the Prime Minister in October 2017, citing the need to maintain "coordination" with the United States of America.[8] If passed into law, it would not only effectively change the demographic balance in the Municipality of Jerusalem in favour of a Jewish majority, but also amount to a de facto annexation of some of the largest settlements in the West Bank.[9]

2. Hebron

12. On 31 August 2017, Israel issued military order No. 1789 establishing a "civil services administration" for settlements in the area of Hebron under Israeli control, H2. By upgrading the status of settlements, the order confers legal personality to the new administration and specific powers, such as the power to purchase and renovate property, provide municipal services, and legally represent the settlers. This amounts to a consolidation of the settler presence in Hebron, in violation of international humanitarian law.[10]

13. Impediments to Palestinians' freedom of movement were further consolidated in the H2 area of Hebron with the addition of new closures and the fortification of existing checkpoints. This has led to a sharp deterioration in the living conditions and an increased coercive environment for affected Palestinians in the H2 area of Hebron (A/71/355, para. 25). According to information gathered by OHCHR, at least three families (18 people) have left since May 2017 because of the coercive factors in the area (A/71/355, paras. 60-64).

14. On 26 July 2017, settlers moved into the second and third floors of a house belonging to the Abu Rajab family, in the H2 area of Hebron. In 2012 and 2013, other settlers had taken over parts of the house, claiming that a settler-run estate company had purchased them. At the time, the High Court of Justice had ordered the prompt evacuation of the settlers, on the grounds that ownership deliberations were ongoing. On 27 August 2017, the Court decided that the presence of the settlers in the house was illegal and that they should be evicted. On 3 September 2017, however, the Supreme Court suspended the eviction order until further notice. Since the house has been occupied by settlers, the area witnessed an intensification in the presence of Israeli security forces and settlers, and of related violence (see para. 22 below).

3. Regularization of outposts

15. On 22 October 2017, the High Court of Justice confirmed a 2016 ruling that 15 settlement units in the outpost of Netiv Ha'avot in Gush Etzion, built on private Palestinian land, had to be demolished. The State of Israel intends to legalize under national law 43 units in the outpost, built without the State's approval but on State land (see para. 22 below). A new outpost was created outside Halamish settlement a few days after a Palestinian killed three Israelis in the settlement, on 21 July 2017, but it was later dismantled.[11]

16. No outposts were legalized during the period under review. Israel last legalized an outpost in May 2014. In February 2017, however, the Knesset adopted the so-called "regularization law", which could allow for the retroactive legalization of outposts built on private Palestinian land. If implemented, the law would apply to more than half of existing Israeli outposts and approximately 3,000 additional housing units built illegally within existing settlements (A/72/564, paras.14-15). As at November 2017, the law had yet to be

[8] Becca Noy, "Pressure from Washington behind Greater Jerusalem bill vote delay", *Jerusalem on Line*, 29 October 2017.

[9] See also Nir Hasson and Jonathan Lis, "Israeli minister to push plan aimed at reducing number of Arabs in Jerusalem", *Haaretz*, 29 October 2017.

[10] Fourth Geneva Convention, art. 49.

[11] Jacob Magid, "Work starts on new outpost outside Halamish after deadly terror attack", *Times of Israel*, 23 July 2017.

implemented following petitions filed against it with the High Court of Justice and a temporary injunction issued by the Court on 17 August 2017.[12]

17. The Israeli Attorney General has publicly opposed the regularization law and requested the court to suspend its application pending a final decision. At the same time, however, he confirmed an alternative way to expropriate privately owned Palestinian land.[13] In a legal opinion issued on 7 November 2016, the Attorney General approved the use of Military Order No. 29 (1967) to legalize settlement constructions built on private Palestinian land, when built in good faith, based on the assumption that it was on State land, and with adequate compensation to the lawful landowners.[14] The regularization law might therefore not be necessary for Israel to achieve the retroactive legalization under national law of a large number of houses in settlements and of many outposts built on privately owned Palestinian land.[15]

C. Settlement infrastructure

18. On 25 October 2017, the Prime Minister of Israel vowed to promote an 800 million shekel plan for bypass roads in the West Bank. According to the non-governmental organization Peace Now, the purpose is to connect settlements in the West Bank with Israel and the main West Bank traffic arteries, while reducing the need for settlers to drive through Palestinian towns and villages. The organization warns that projects of this kind have entailed the confiscation of private Palestinian land.[16]

19. Construction of the East Jerusalem ring road between the Palestinian communities of Al-Za'ayyim and Anata commenced in September 2017. The road is separated by a wall, with a road for Palestinians on one side and a road for Israelis on the other. Once completed, it will play a significant role in the development of the E1 settlement infrastructure (A/70/351, para. 18). Construction of the wall continued south of Jerusalem, through the Cremisan Valley – at imminent threat of being cut off from the West Bank – and around the village Al-Walaja, further isolating this Palestinian village situated near the settlements of Gilo and Har Gilo.

D. Settler violence

20. Settler violence has increased since the previous reporting period, reaching a peak during the first half of 2017. During the period under review, the Office for the Coordination of Humanitarian Affairs documented 147 incidents of settler violence, as against 104 in the previous reporting period. The incidents resulted in Palestinian casualties (three killed and 75 injured, including 19 children), and 110 of the incidents led to damage to Palestinian property.

21. On 6 September, 16-year-old Usama Daghlas was, according to the victim, attacked 500 m from his house, in Burqa village, by 10 to 20 settlers who beat him unconscious.

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[12] Besides delaying the application of the law, the injunction halts the enforcement of demolition orders on illegal settlement construction on private Palestinian land in the West Bank.

[13] In his response to the High Court of Justice to the petitions against the law submitted on 22 November 2017, the Attorney General, while opposing the law, explained that other more proportionate tools could be used to achieve the same goals, referring to his legal opinion of 8 November 2017, where he asserted that, on the basis of a recent decision of the High Court of Justice, privately owned Palestinian land could be expropriated for public purposes in settlements where only the settlers can benefit from it. See http://peacenow.org.il/wp-content/uploads/2017/11/AG-response-expropriation-law.pdf (in Hebrew).

[14] On 19 November 2017, the Government of Israel relied on the opinion in a petition pending before the High Court of Justice to justify the expropriation of 45 dunams of private Palestinian land.

[15] See *Haaretz*, Yotam Berger, "Israel's Attorney General paves way for legalization of at least 13 West Bank outposts", 19 November 2017; and "Israeli attempt to 'legalize' settler homes built on private Palestinian land gets legal backing", 23 November 2017.

[16] Peace Now, "800 million shekel plan for bypass roads in the West Bank approved by Netanyahu", 26 October 2017.

Over the course of approximately an hour, the settlers stripped him naked and dragged him over a hillside. A shepherd found him two hours later, unconscious and bruised. Even though a complaint was filed, the investigation was soon closed by the police given that the perpetrators remained unidentified.

E. Discriminatory law enforcement

22. Since the Abu Rajab house was occupied in the H2 area of Hebron on 25 July 2017, the area has witnessed an increase in settler presence and specific incidents of settler violence. According to monitoring by OHCHR, the week after the settlers took over the house, 12 Palestinians were injured by settlers. On 4 August 2017, OHCHR documented a group of settlers throwing stones at Palestinians along the road between Kiryat Arba settlement and the Abu Rajab house; two Palestinians sustained head injuries, and one had a broken hand. According to witnesses, Israeli Security Forces did not intervene to protect the two injured Palestinians, but arrested them, without first ensuring their access to medical assistance. The Palestinians were released an hour later, then transferred to a Palestinian ambulance. According to monitoring by OHCHR, on 9 September 2017, settlers attacked a 55-year-old Palestinian woman living in the Abu Rajab house while she was in the courtyard. Witnesses stated that settlers threw stones from the roof of the three-story building, hitting the woman twice on the head; she was subsequently hospitalized. Although the family filed a complaint with the police, as at November 2017, OHCHR was not aware of any developments in the case.

23. As the occupying Power, Israel has the obligation to uphold public order and safety in the Occupied Palestinian Territory and to protect the Palestinian population from all acts of violence.[17] Israel also has the obligation to exercise due diligence to prevent, investigate, prosecute, punish and remedy any harm caused to Palestinians (A/HRC/34/38, paras.13, 36-37). It is common, however, for the Israeli Security Forces neither to prevent incidents nor to react to attacks occurring in their presence (A/72/564, paras. 20-22). Israel has also repeatedly failed in its obligation to do its utmost to investigate cases of settler violence and prosecute perpetrators. Settler violence impedes the enjoyment of numerous human rights by the Palestinian population affected (A/71/355, para. 50; A/HRC/34/38, para. 36).

F. Impact of settlements on Palestinian communities at risk of forcible transfer

24. The publicly stated intention of the Government of Israel to relocate thousands of Palestinians residing in Area C remains a key concern, as well as a source of pressure contributing to a coercive environment (A/HRC/34/39, para. 44; A/72/564, paras. 36-57). Some 7,500 persons belonging to 46 Bedouin communities, mostly refugees, are at particular risk. According to the Office for the Coordination of Humanitarian Affairs, during the period under review, 488 Palestinian-owned structures were demolished, including 319 in Area C, in the West Bank, causing the displacement of 684 people (including 414 in Area C), including 383 children (236 children in Area C).

25. On 24 September 2017, the Israeli Civil Administration informed the community of Khan al Ahmar that it would be relocated by mid-2018. Around 140 Palestinians live in this severely underserviced village in the Jerusalem periphery and are at risk of forcible transfer. In September, the Minister of Defence of Israel warned that plans to demolish Susya, a Palestinian village located in Area C and the target of multiple demolitions in the past, were proceeding.[18]

[17] Regulations respecting the Laws and Customs of War on Land (Hague Regulations), arts 43 and 46; Fourth Geneva Convention, art. 27.

[18] Yotam Berger, "After heavy diplomatic pressure, Israel moves to delay demolition of Palestinian village of Sussia", *Haaretz*, 2 November 2017.

IV. Impact of settlements: a case study of the coercive environment in East Jerusalem

26. Since the occupation of East Jerusalem by Israel in 1967, more than one third of the territory of East Jerusalem has been expropriated for the construction of Israeli settlements (A/66/364, para. 13). Jerusalem has 323,700 Palestinian residents, accounting for 37 per cent of the population of the city. According to sources, in East Jerusalem, 210,000 Israeli settlers live in large settlement blocs, while another 2,000 to 3,000 live in small enclaves in the heart of Palestinian neighbourhoods.[19] Unlike settlements in the West Bank, those in East Jerusalem are located within densely populated Palestinian neighbourhoods, causing significant friction and violence.

27. The Secretary-General has previously voiced concerns about the impact of settlement policies on the living conditions of Palestinians, including the increased risk of individual and mass forcible transfer (A/HRC/34/38, para. 23; A/HRC/34/39, para. 40; A/72/564, para. 27). There is a concern that Israel, as the occupying Power, is increasing pressure on Palestinians living in areas under full Israeli control through practices and policies that contribute to a coercive environment, compelling them to move out of their areas of residence (A/HRC/34/39, paras. 40-42).

28. International humanitarian law prohibits the transfer of a population by an occupying State into an occupied territory, and individual or mass forcible transfer or deportation of the population of an occupied territory, regardless of the motive.[20] Such a transfer amounts to a grave breach of the Fourth Geneva Convention and is therefore a war crime.[21] Forcible transfer does not necessarily require the use of physical force by authorities: it may be triggered by specific factors that give individuals or communities no choice but to leave, amounting to what is known as a "coercive environment". Any transfer without the genuine and fully informed consent of those affected is considered forcible. Genuine consent to a transfer cannot, however, be presumed in an environment marked by the use or threat of physical force, coercion, fear of violence, or duress (A/HRC/34/38, para. 28; A/HRC/34/39 para. 41). Human rights, such as the rights to freedom of movement, privacy and family life,[22] in addition toeconomic, social and cultural rights (A/HRC/16/71, para. 24), are usually violated within the context of forcible transfer.

A. Discriminatory planning and zoning

29. Municipal planning practices differ in the case of Israelis in West Jerusalem, Palestinians in East Jerusalem and Israeli settlers in East Jerusalem. As reiterated in previous reports of the Secretary-General and the Committee on the Elimination of Racial Discrimination, the planning regime adopted by Israel is discriminatory and incompatible with requirements under international law (A/HRC/25/38, paras. 11-14; A/HRC/31/43 paras. 18 and 45; A/HRC/34/38, para. 25; CERD/C/ISR/CO/14-16, para. 25). Its planning policies and processes in East Jerusalem and Area C contravene the principle of non-discrimination in relation to the right to an adequate standard of living, including the right to housing.[23]

30. Israeli authorities have allowed for the planning and zoning of only 13 per cent of East Jerusalem for Palestinian residential construction, most of which is already built up. According to the Association for Civil Rights in Israel (ACRI), for more than a decade, local and district planning authorities have not advanced a single outline plan in the Palestinian neighbourhoods despite the fact that, over the same period, the Palestinian population in East Jerusalem increased by more than 25 per cent.[24] In areas where

[19] Daniel Seidemann, *The Israeli Settlement Enterprise in East Jerusalem, 1967-2017* (Jerusalem, 2017), p. 15. [20] See Fourth Geneva Convention, art. 49.

[20] See Fourth Geneva Convention, art. 49.

[21] Fourth Geneva Convention, art. 147; Rome Statute, art. 8 (2) (b) (viii).

[22] International Covenant on Civil and Political Rights, arts. 12 and 17.

[23] International Covenant on Economic, Social and Cultural Rights, art. 11. See also A/72/564, para. 25.

[24] See http://jerusaleminstitute.org.il/ upload/yearbook/2007_8/shnaton%20C0106.pdf.

construction is permitted, the application process for building permits is prohibitive for many Palestinians owing to, inter alia, the high costs involved, the difficulty of providing proof of land ownership, and the criteria of requisite access roads and other infrastructure often missing in Palestinian neighbourhoods. The process can take several years, and the actual prospects of a permit being granted are low.[25] According to the non-governmental organization Bimkom, there are approximately 32,000 legal housing units for the 323,700 Palestinians in Jerusalem, a result of the municipality having issued only 5,000 construction permits since 1967 and built little public housing for Palestinians. Consequently, a third of Palestinian homes in East Jerusalem have been built without the required Israeli permit, a fact that Makes them subject to demolition orders, putting at least 100,000 Palestinians at risk of displacement.[26]

31. The planning, zoning and settlement policies in East Jerusalem prevent the normal development and natural growth expansion of Palestinian families, sometimes forcing people to move to other neighbourhoods or to leave Jerusalem owing to the lack of available housing. The shrinking physical space for Palestinians to live in East Jerusalem is compounded by the contraction of public and cultural public space. According to the Jerusalem Legal and Human Rights Centre, 24 Palestinian civil society organizations and cultural institutions have been closed by the Israeli authorities since 2001 on the basis of allegations of relations with political parties or the Palestinian Authority. During the period under review, at least eight cultural or political Palestinian events were prohibited in East Jerusalem.

32. While the planning and construction laws are enforced on Palestinian communities, illegal construction by settlers in the same neighbourhoods has been tolerated by the municipality. One example is Beit Yonatan, an illegally built six-story building in Silwan. Proceedings by the legal adviser of Jerusalem municipality led to an order to evacuate the building, upheld by the High Court. The mayor of Jerusalem has, however, refused to implement the ruling.[27]

B. Home demolitions and forced evictions, or the threat thereof

33. The Secretary-General and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 previously noted that the seizure of Palestinian homes and forced evictions, and the risk thereof, often to allow settlers to move in, contributed to a coercive environment in East Jerusalem (A/HRC/16/71, paras. 20-22; A/HRC/34/39, para. 46; A/70/351, paras. 25-51). Demolitions leading to forced evictions also violate the right to an adequate standard of living, including the right to housing (A/72/564, para. 26).[28] Demolitions carried out by the Israeli authorities in the context of discriminatory planning or for punitive purposes are unlawful under international law, given that they lead to forced evictions. They also violate international humanitarian law, which expressly prohibits the destruction or confiscation of private property (see A/HRC/34/38, paras. 21-22).[29] If not justified by military necessity, and carried out unlawfully and wantonly, the extensive destruction and appropriation of property amounts to a grave breach of article 147 of the Fourth Geneva Convention and constitutes a war crime.[30] According to the Office for the Coordination of Humanitarian Affairs, during the

[25] Aviv Tatarsky and Architect Efrat Cohen-Bar, *Deliberately Planned: A Policy to Thwart Planning in Palestinian Neighborhoods of Jerusalem*, Ir Amim and Bimkom, February 2017, p. 9.

[26] Office for the Coordination of Humanitarian Affairs, "Significant increase in risk of displacement in East Jerusalem", *Monthly Humanitarian Bulletin*, August 2017.

[27] Seidemann, *The Israeli Settlement Enterprise* (see footnote 19), p. 103. See also Ronen Medzini, "Barkat delays Beit Yonatan eviction", ynetnews.com, 26 December 2010.

[28] International Covenant on Economic, Social and Cultural Rights, art. 11. See also Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on forced evictions.

[29] International Covenant on Economic, Social and Cultural Rights, art. 11. See also Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on forced evictions.

[30] See Hague Regulations, art. 46; and Fourth Geneva Convention, arts. 53 and 56.

[31] See also the statute of the International Criminal Court, art. 8 (2) (a) (iv).

period under review, 157 constructions were demolished in East Jerusalem, leading to the displacement of 241 people, including 138 children.

34. OHCHR followed the case of East Jerusalem residents Saleh Ibrahim Turk and his family, who were displaced twice owing to demolitions, and relocated to Shuafat refugee camp, an area beyond the wall, within the Jerusalem municipal border. The family's first house in 'Anata, East Jerusalem, was demolished in 2007 because it was on the route of the wall. After buying land in Isawiya, East Jerusalem, the family built a house without a permit, as they were unable to secure one. They received a demolition order in 2013; despite their efforts to postpone the demolition and the payment of heavy fines, the house was demolished on 14 February 2017, without further warning. The family of 10 currently lives on the ninth floor of an unfinished building, in Shuafat refugee camp. Owing to the insecurity of the building and the many stairs, the mother and several of her children rarely leave the house. Their livelihood has been considerably affected, given that they previously relied on farming and livestock, and their movement is restricted because of the checkpoint and the frequent closures linked to clashes.

35. OHCHR monitored the situation of another family that moved from East Jerusalem to another part of the West Bank after the demolition of their house in early 2017. Although their house was located in a zone designated for construction, the area did not have a zoning plan and the house was therefore built without a permit. After the demolition of their house, the family moved to Area C in the West Bank, also owing to the lack of other housing options. The children have to commute an additional hour, including through a checkpoint, to reach their school in Jerusalem. The family now risks the revocation of its Jerusalem residency status as it lives outside the municipal border, which would lead to their permanent displacement from Jerusalem.

36. Both cases of displacement due to house demolition are the direct consequence of the implementation by Israel of a discriminatory planning and zoning regime in East Jerusalem, notably in violation of the right to an adequate standard of living, including the right to housing. Such cases of displacement may also amount to forcible transfer.

37. According to the Office for the Coordination of Humanitarian Affairs, the majority of families whose homes were demolished in East Jerusalem between 2012 and 2016 stayed in the same community; 20 per cent of the families moved from the East Jerusalem side of the wall to the other side; of these, 65 per cent moved to Jerusalem municipality areas, while the rest moved to other parts of the West Bank. Palestinian residents of East Jerusalem who relocate outside the municipality of Jerusalem risk the definitive loss of their East Jerusalem residency, which is afforded on the condition that the centre of their life is effectively there (see para. 56 below).

38. An Israeli local government audit found that some 140,000 residents live in the eight Palestinian neighbourhoods that lie within the Jerusalem municipality border defined by the Israeli authorities but in areas separated from the rest of East Jerusalem by the wall.[31] The neighbourhoods severely lack basic infrastructure, municipal services and law enforcement, and suffer from poor living conditions,[32] although the communities themselves are under the authority of the municipality of Jerusalem and pay municipal taxes.

39. As at 31 October 2017, eviction cases had been filed against at least 180 families (about 800 people) in East Jerusalem, including 21 households in the Old City. Most cases were initiated by settler organizations aiming at gaining control of Palestinian properties by claiming ownership prior to 1948 or challenging the "protected tenant" status of some families.[33] As previously reported, private settler initiatives have significantly increased in East Jerusalem since 2009, particularly in the neighbourhoods surrounding the Old City,

[31] See Association for Civil Rights in Israel, East Jerusalem: Facts and Figures 2017, 21 May 2017. The areas comprise Qalandia, Kufr Aqab, Shuafat refugee camp and surrounding area (including Ras Khamis and Ras Sheheda) and parts of Im Shirayat, Abu Emgheyreh, Al Shayyah, Ber Owna and As Sawariya.

[32] UNDP, *Jerusalem Communities behind the Wall: "Area X"*, Resilience Series, March 2017, p. 7.

[33] Office for the Coordination of Humanitarian Affairs, "East Jerusalem: Palestinians at risk of eviction", 3 November 2016. The status of "protected tenants" was granted to Palestinians who were renting properties in East Jerusalem as administered by Jordan after 1948.

where 2,500 settlers are located. Such initiatives are supported by funding of the Government of Israel (A/HRC/34/39, para. 30). The Absentee Property Law has been often evoked to transfer properties to settler organizations in East Jerusalem, mainly to Elad and Ateret Cohanim (A/70/351, paras. 29-36).

40. Lawsuits based on a claim of previous Jewish ownership have been a frequent strategy for settler organizations to acquire properties in East Jerusalem. Since 2014, there has been an increase in settler takeovers in the neighbourhoods surrounding the Old City, primarily through purchase and claims of prior ownership before 1948.[34] The combination of three laws enacted by Israel since 1948 allows Jews to claim ownership rights to properties on the basis of alleged pre-1948 Jewish ownership; Palestinians who owned land or property in areas before 1948 that are now part of the State of Israel are not, however, granted any reciprocal right (A/71/355, para. 7).[35]

41. Tourism heritage development in East Jerusalem has also profoundly changed the shape and character of Palestinian neighbourhoods, creating footholds for further residential settler expansion (A/HRC/34/39, para. 21; A/70/351, para. 33); according to a report issued by the State Comptroller (annual report 67A) in 2016, archaeological tourism sites in East Jerusalem are managed by private settler groups, with little transparency or government oversight.

42. Settlers have apparently managed to purchase properties from Palestinians, often through Palestinian middlemen, in neighbourhoods where the coercive environment is strongest, such as the Old City and Silwan.[34] Information about such sales is very limited, given that they are illegal under Palestinian law and are strongly condemned by Palestinian society.

43. Since the early 1970s, the Palestinian refugee community in Sheikh Jarrah has been the target of forced evictions raised in Israeli courts by settler organizations that claim pre-1948 ownership. In November 2017, 66 families were facing eviction proceedings.[36] On 5 September, the Shamasneh family (eight members, including a child) was forcibly evicted from its home in Sheikh Jarrah, which was handed over to Israeli settlers; the first eviction in the neighbourhood in eight years. Although the family had lived in the house since 1964, it had become the subject of eviction proceedings after the house was transferred to settlers claiming to represent the original owners.

44. Forced evictions resulting from demolitions are a violation of human rights, including the rights to adequate housing, water, sanitation, health and education (A/72/564, para. 49). The most direct impact of house demolitions is homelessness, in violation of the right to adequate housing as protected by article 11 of the International Covenant on Economic, Social and Cultural Rights. Demolitions generally have a disproportionate impact on women, who are often the primary caregivers for extended families and manage household livelihoods.[37]

C. Right to life, liberty and security of person

45. To ensure the security of settlers, armed private security guards, Israeli police, border police and temporary checkpoints are deployed. The friction caused by the heavy presence of settlers, Israeli security guards and police in densely populated Palestinian

[34] Seidemann, *The Israeli Settlement Enterprise* (see footnote 19), p. 71. [35] Eyal Raz and Aviv Tatarsky, Broken Trust: *State Involvement in Private Settlement in Batan al-Hawa, Silwan*, Ir Amim and Peace Now, May 2016, p. 8.

[35] Eyal Raz and Aviv Tatarsky, Broken Trust: *State Involvement in Private Settlement in Batan al-Hawa, Silwan*, Ir Amim and Peace Now, May 2016, p. 8.

[36] Office for the Coordination of Humanitarian Affairs, "East Jerusalem: Palestinians at risk of eviction", available from www.ochaopt.org/sites/default/files/evictions_community_sum_ej_2016_final_1_11_2016.pdf.

[37] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *International Legal Accountability Mechanisms: Palestinian Women Living under Occupation*, December 2016.

neighbourhoods frequently leads to clashes, which in turn serve as a justification for police raids and arrests.

46. During the unrest in Jerusalem in July 2017, following the killing of two Israeli policemen near the Al-Aqsa mosque compound and the subsequent measures taken by Israeli police at the entrances to the holy site, OHCHR and the Office for the Coordination of Humanitarian Affairs documented a spike in excessive use of force, during which 13 Palestinians were injured by live ammunition and two were killed in clashes in East Jerusalem.

47. The heavy security measures taken by Israeli authorities in these crowded neighbourhoods often have an impact on bystanders; children are especially vulnerable. For instance, according to monitoring by OHCHR, on 9 July 2017, 13-year-old Nour Ayman Hamdan was standing on the balcony of his house in Isawiya as Israeli Security Forces entered his neighbourhood, called to intervene in a dispute between Palestinians. He was struck with a sponge-tipped bullet in his left eye, causing permanent loss of sight.

48. In East Jerusalem settlements, the Ministry of Defence of Israel contracts private security companies to protect settlers. According to the Association for Civil Rights in Israel, the security guards are de facto private police forces at the exclusive service of Jewish residents, unlike the regular police which, in principle, must serve all inhabitants without discrimination and is subject to public accountability.[38]

49. OHCHR monitored two cases that demonstrated how the settler takeover of houses in the East Jerusalem neighbourhood of Batan al Hawa in Silwan has increased tensions and violence. On 17 December 2016, Mousa Ali Qarra'een was attempting to de-escalate an argument between Palestinian youths and Israeli security guards outside a settler's house in Batan al Hawa when a private guard drew his weapon and opened fire, shooting Qarra'een in the leg. When he arrived at the hospital, Israeli Security Forces delayed his treatment for 40 minutes to interrogate him. While Qarra'een was charged with assault, OHCHR is not aware of any investigation or charges raised against the guard.

50. On 9 September, 61-year-old Fayez al Rajabi, who lives 15 m from houses occupied by settlers in Batn al Hava, was looking for his son and granddaughter when he heard that tear gas grenades were being shot during scuffles. When he reached the street, Israeli Security Forces threw three sound grenades at him from a distance of 10 m, the explosions hitting his legs and face. His hearing was affected and he was hospitalized for 10 days with internal brain bleeding.

51. Residents of Batan al Hawa in Silwan reported to OHCHR that the neighbourhood was quieter before the first of the two houses was taken over by settlers in 2014. Since then, there has been a heavy presence of Israeli Security Forces and frequent clashes, at times on a daily basis. Al Rajabi and his wife Ayda are worried about the impact on their family, especially their three sons, aged between 15 and 22 years. One of their sons has been imprisoned for stone-throwing and another arrested for allegedly insulting police officers. Batan al Hawa is considered one of the most vulnerable neighbourhoods in East Jerusalem, with 62 households at risk of eviction and 309 persons risking displacement because of ownership claims.

52. Human rights organizations have continued to raise concern at the arrest of Palestinian children in East Jerusalem (A/70/351, para. 48).[39] According to the Office for the Coordination of Humanitarian Affairs, 1,092 Palestinians, including 409 children, were arrested in East Jerusalem during the period under review. Palestinian children are mainly arrested in areas with a high settler presence, especially in the Old City, Silwan and Ras al Amud.

[38] See www.acri.org.il/en/wp-content/uploads/2011/10/E-Jlem-Petition-Security-guards-ENG.pdf.

[39] B'Tselem and HaMoked, *Unprotected: Detention of Palestinian Teenagers in East Jerusalem*, October 2017.

D. Collective punishment

53. Collective punishment is expressly prohibited by international humanitarian law and has a negative impact on several human rights (A/HRC/34/38, para. 33).[40] It is also a coercive factor (A/HRC/34/39, para. 57). In East Jerusalem, OHCHR has monitored and documented practices that raise concern with regard to collective punishment, including the punitive sealing of houses and demolitions, the revocation of residency status and the withholding of bodies; for instance, as documented by OHCHR, the family home of Fadi al Qunbar, who killed four Israeli soldiers when he rammed a truck into them on 8 January 2017, was punitively sealed on 22 March 2017, leading to the forcible eviction of his wife and four children in the East Jerusalem neighbourhood of Jabal Al Mukkaber (A/72/565, para. 19). After the attack, approximately 240 households in that neighbourhood received a notice of planning or zoning violations, exposing them to the risk of demolition and forced eviction (para. 23). The Office for the Coordination of Humanitarian Affairs, during the period under review, counted 13 cases of punitive demolition and the sealing of houses in the Occupied Palestinian Territory, including four in East Jerusalem, affecting 39 Palestinians, including 18 children.

54. In January 2017, Israel resumed its practice of punitive revocation of East Jerusalem residency status as a form of collective punishment (A/72/565, paras. 21-25). Even when not carried out as a punitive measure, this would be a violation of the right to liberty of movement and freedom to choose residence (A/HRC/34/38, paras. 62-66).[41] Following the above-mentioned attack on 8 January 2017, 11 members of the Qunbar family had their residency status in East Jerusalem revoked, on 25 January 2017 (A/72/565, paras. 21-22).

E. Residency regime

55. The strict residency regime for East Jerusalem residents and restrictions on family unification between residents of East Jerusalem and of other parts of the West Bank is another factor contributing to the coercive environment (A/HRC/34/39, para. 56). In Jerusalem, while Palestinians may apply for Israeli citizenship, the overwhelming majority reject that option and therefore only have "permanent residency", which can be revoked – unlike Palestinians in Israel who have Israeli citizenship. Since 1967, Israel has revoked the residency status of 14,595 Palestinian residents of Jerusalem.[42] Since 1995, Palestinian residents of East Jerusalem are required by Israel to continuously prove that Jerusalem is their "centre of life" to keep their residency status (A/HRC/31/44, para. 29). Residency is not automatically passed on to children, but has to be proven by their parents. If residents lose their residency permits, they become effectively stateless and have no legal status to reside in Jerusalem, thereby risking displacement to the West Bank. OHCHR monitored the case of Shifa Shalludi who, after living 19 years in Jerusalem, lost her permit to live in the city following her divorce. She had no choice but to move with her children to Kafr Aqab, an area on the other side of the wall, but within the Jerusalem municipal boundary, so that her children could retain their eligibility for Jerusalem residency. She lost her job and network in Jerusalem, and now struggles to secure an income and care for the children in a severely underserviced area. Besides being discriminatory, the residency permit regime in Jerusalem violates the right to liberty of movement and freedom to choose residence.[43] It also has a profound impact on the exercise of economic, social and cultural rights, such as the rights to work, to health and to education (A/HRC/31/44, para. 6).

[40] Hague Regulations, art. 50; Fourth Geneva Convention, art. 33.

[41] See International Covenant on Civil and Political Rights, art. 12. In September 2017, the Israeli High Court of Justice ruled against the revocation of the East Jerusalem residency status of four members of the Palestinian Legislative Council on the grounds of "breach of loyalty"; see Adalah, "After 10 years of litigation, Israeli Supreme Court rules interior minister cannot revoke Palestinian parliamentarians' Jerusalem residency for 'breach of loyalty'", 13 September 2017.

[42] Human Rights Watch, "Israel: Jerusalem Palestinians stripped of status", 8 August 2017.

[43] International Covenant on Civil and Political Rights, art. 12.

F. Access to services

56. East Jerusalem faces a lack of essential services, such as health care, welfare services, educational facilities and basic infrastructure. According to the Association for Civil Rights in Israel, only 59 per cent of residents are connected legally and properly to the water grid.[44] The public education system is underfunded and neglected, with a shortage of around 2,000 classrooms. The Municipality estimates the cumulative dropout rate at 32 per cent.[45]

57. The lack of access to services, often compounded by restrictions on the freedom of movement, contribute directly to the coercive environment in areas under full Israeli control (A/HRC/34/39, paras. 55-57).[46] According to Ir Amim, approximately 8 to 10 per cent of the budget of the Jerusalem Municipality is allocated to Palestinians in East Jerusalem, even though they account for 37 per cent of the city's population. In recent years, while municipal officials have claimed in media reports that there was an increase in budget allocation to Palestinians neighbourhoods, no comprehensive data have been released to substantiate these claims.[47] The discriminatory service provision and resource allocation that favours West Jerusalem and settlers in East Jerusalem severely affects the quality of life of the Palestinians residing in East Jerusalem (A/HRC/31/43, para. 18). According to a poverty report prepared in 2016 by the National Insurance Institute, 73 per cent of the residents of East Jerusalem lived below the poverty level. The average poverty rate in Israel is 22 per cent.[48]

58. The wall severely impedes freedom of movement and access to municipal services in neighbourhoods that are part of Jerusalem municipality but on the other side of the wall. Many students who attend learning facilities on the other side of the wall endure delays and difficulties in reaching these facilities.[49] Similarly, access to health care is impeded by the crossing of checkpoints, causing delays that can prove fatal in cases of emergency. According to the United Nations Development Programme (UNDP), Israeli ambulances are unwilling to enter the areas of East Jerusalem lying beyond the wall, and Palestinian ambulances are not allowed to cross the wall.[50]

59. With regard to services, the situation is even worse in the areas of East Jerusalem situated beyond the wall, where there is a lack of schools, medical facilities and waste collection, and road infrastructure is of poor quality. A decision by the Government of Israel of 28 May 2017, allocating nearly 180,000 NIS ($50,000) for improving waste collection and sewage infrastructures in Palestinian neighbourhoods in East Jerusalem, explicitly excluded the areas beyond the wall, citing "ongoing interministerial" discussions on addressing the challenges in those areas.[51]

60. Since the construction of the wall, Israeli law enforcement has almost completely withdrawn from the areas, while the Palestinian police does not have jurisdiction there, creating a severe gap in law enforcement that encourages high rates of crime and violence.[52] Construction in these areas is rampant, with a lack of enforcement of building safety regulations. The consequence is that many buildings could be unsafe, especially in

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[44] See www.acri.org.il/en/wp-content/uploads/2017/05/Facts-and-Figures-2017.pdf.

[45] Ibid. See http://m.knesset.gov.il/Activity/committees/Education/Pages/CommitteeProtocols.aspx (in Hebrew).

[46] Middle East Quartet Report, July 2016 (see http://fmep.org/wp/wp-content/uploads/2016/07/Quartet-Report-2016.pdf), p. 6.

[47] According to one source, the development budget of Palestinian neighbourhoods grew almost tenfold between 2004 and 2015; see Elhanan Miller, "City Hall almost done mapping East Jerusalem", *Times of Israel*, 20 February 2015.

[48] See www.btl.gov.il/Publications/oni_report/Documents/oni2016.pdf (in Hebrew). See also Association for Civil Rights in Israel, East Jerusalem (see footnote 31).

[49] UNDP, *Jerusalem Communities behind the Wall* (see footnote 32), p. 16.

[50] Ibid.

[51] See www.pmo.gov.il/MediaCenter/SecretaryAnnouncements/Pages/govmes280517.aspx (in Hebrew).

[52] UNDP, *Jerusalem Communities behind the Wall* (see footnote 32), p. 8.

the event of natural disaster.[53] In May 2017, the first of six planned police stations in Palestinian neighbourhoods of East Jerusalem was opened in the Shuafat refugee camp, as part of a $287 million government initiative to improve law enforcement and security in East Jerusalem.[54]

61. In addition to its obligations under international human rights law, including concerning the rights to an adequate standard of living and to the highest attainable standard of physical and mental health,[55] Israel has the responsibility, as an occupying Power, to ensure proper access to health-care facilities and services to the Palestinian population of the Occupied Palestinian Territory, without discrimination.[56]

62. The persistence of settlement expansion, settler violence, demolition of homes and livelihood structures and the restrictions on freedom of movement have high costs for Palestinian women, including in East Jerusalem (E/CN.6/2016/6). Furthermore, the impact of the restrictive residency regime and denial of family unification requests, such as separation from family members, has a disproportionate impact on women.[57]

G. Forced to leave

63. All the above-mentioned factors in East Jerusalem create a coercive environment that places Palestinians under pressure to leave. Like in other areas of the West Bank, namely Area C or the H2 area of Hebron, Palestinians may have no other choice than to leave the very area where they have been living for decades or generations. As described above, a number of Palestinians have felt pressured to move, mainly by forced evictions or the revocation of residency status. Continuing discriminatory practices by the Israeli authorities put hundreds of Palestinians at risk of forcible transfer in East Jerusalem.

64. Such displacement is also evidenced by the growing population of East Jerusalem neighbourhoods situated behind the wall. Residents of East Jerusalem displaced by a demolition or other factors contributing to the coercive environment, often relocate to these areas. According to UNDP, migration trends show that poorer Palestinians move out of central Jerusalem to areas where rent is lower and there are fewer restrictions on housing expansion.[58] It is also the only place where Palestinians with residency status in Jerusalem can live with spouses from the West Bank without losing their status. This is an extremely worrisome trend, particular given the lack of services and law enforcement, and the numerous hazardous and unsupervised constructions rising in these neighbourhoods.

V. Settlements in the occupied Syrian Golan

65. Illegal settlement expansion and land appropriation by the Government of Israel in the occupied Syrian Golan continued during the period under review, in violation of the State's obligations under international law.[59] According to the civil society organization Al-Marsad, the 34 Israeli settlements in the occupied Syrian Golan have a population of about 26,000.[60] The estimated 25,000 Syrian residents of the Golan are restricted to living in five overcrowded villages.[61] Owing to discriminatory land, housing, and building and permit

[53] Ir Amim, *Displaced in their own city: the impact of Israeli policy in East Jerusalem on the Palestinian neighborhoods of the city beyond the separation barrier*, June 2015, p. 45. In stark contrast to other East Jerusalem neighbourhoods, according to the Office for the Coordination of Humanitarian Affairs, few house demolitions are carried out in the areas Jerusalem beyond the wall, accounting for only 9 per cent of all buildings demolished by Jerusalem Municipality.

[54] Daniel K. Eisenbud, "First police station opens in East Jerusalem's Shuafat refugee camp", Jerusalem Post, 7 May 2017.

[55] International Covenant on Economic, Social and Cultural Rights, arts. 11 and 12.

[56] Fourth Geneva Convention, art. 56.

[57] UN-Women, *International Legal Accountability Mechanisms* (see footnote 37), p. 14.

[58] UNDP, *Jerusalem Communities behind the Wall* (see footnote 32), p. 6.

[59] General Assembly resolution 72/86, para. 1.

[60] See http://golan-marsad.org/january-2018-universal-periodic-review-of-israel/.

[61] See http://golan-marsad.org/wp-content/uploads/Al-Marsad-UPR-submission-for-Israel.pdf, para. 2.

requirements, the Syrian villages are increasingly overcrowded, infrastructure is strained, and no expansion to accommodate the needs of the population is possible. Since the first demolition was reported in the occupied Syrian Golan in September 2016, there are concerns that the demolition of homes may become common (A/HRC/34/39, para. 59).[62]

66. In August 2017, the non-governmental organizations Adalah and Al-Marsad stressed the continued presence of mines around the village Majdal Shams that poses a serious danger to an estimated 11,000 people. They called upon the Israeli authorities to remove the mines and the related military outposts reportedly directly adjacent to residential homes, and situated on land belonging to the residents of Majdal Shams. Both organizations noted that the mines often drift beyond the marked minefields, and that some had exploded in the heat of the summer. They estimated that, since 1967, 69 civilian residents of the Golan Heights had been wounded by land mines and that 18 had consequently died, including nine children.[63]

67. The High Commissioner reaffirms the continuing validity of Security Council resolution 497 (1981), in which the Council stated that the decision by the Government of Israel to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights was null and void and without international legal effect.

VI. Conclusions

68. During the period under review, a significant increase in settlement activity, including in East Jerusalem and Hebron, was witnessed. In Hebron, several factors led to a deterioration in the living conditions and to an increased coercive environment.

69. The establishment and expansion of settlements in the Occupied Palestinian Territory by Israel, including the legal and administrative measures that it has taken to provide socioeconomic incentives, security, infrastructure and social services to citizens of Israel residing in the West Bank, including East Jerusalem, amount to the transfer by Israel of its population into the Occupied Palestinian Territory, which is prohibited under international humanitarian law.[64] The transfer of the population by an occupying State into an occupied territory is a grave breach of article 147 of the Fourth Geneva Convention and therefore a war crime.[65] Several international bodies have confirmed the illegality of Israeli settlements in the Occupied Palestinian Territory and the occupied Syrian Golan, including the International Court of Justice, the Security Council, the General Assembly and the Human Rights Council.[66]

70. Palestinians in Area C, the H2 area of Hebron, and East Jerusalem are subject to discriminatory practices, as well as reduced living space, increased tensions, violence and arrests due to the existence and growth of settlements.

71. Palestinians in East Jerusalem face a restrictive planning, permit and construction regime, a lack of public services and shrinking public space. The lack of housing permits leads to the constant threat of demolition and displacement. These factors violate several rights and contribute to a coercive environment in East Jerusalem. Palestinians living in such a coercive environment may have no other choice but to leave, as previously documented in Area C and the H2 area of Hebron

[62] See http://golan-marsad.org/press-release-israeli-authorities-demolish-home-in-majdal-shams-in-the-occupied-syrian-golan/.

[63] Adalah, "Adalah, Al-Marsad demand Israel remove army outposts and minefields from occupied Syrian town on Golan Heights", 2 August 2017.

[64] Fourth Geneva Convention, art. 49 (6).

[65] See also the Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii).

[66] International Court of Justice, *Legal consequences of the construction of a wall in the Occupied Palestinian Territory*, advisory opinion of 9 July 2004, para. 120; Security Council resolutions 465 (1980) and 2334 (2016); General Assembly resolutions 71/97 and 72/86; and Human Rights Council resolution 31/36.

(A/HRC/31/43, para. 60; A/71/355, paras. 61-64), in contravention of the international prohibition of forcible transfer.

VII. Recommendations

72. On the basis of his findings, the United Nations High Commissioner for Human Rights recommends that the Israeli authorities:

(a) Halt immediately and reverse all settlement development and related activities in the Occupied Palestinian Territory, including occupied East Jerusalem, and the occupied Syrian Golan, including through the discontinuation of support for private settler organizations' initiatives aimed at the seizure of Palestinian properties and the forced eviction of their residents, in compliance with relevant United Nations resolutions, including Security Council resolutions 497 (1981) and 2334 (2016);

(b) End immediately all activity contributing to the creation of a coercive environment and/or increasing the risk of forcible transfer;

(c) Review planning laws and policies to ensure that they are compliant with the obligations of Israel under international human rights and international humanitarian law;

(d) Refrain from implementing evictions and demolition orders on the basis of discriminatory and illegal planning policies and practices that may lead to forcible transfer, including of Bedouin and herder communities;

(e) Take all steps necessary to ensure that Palestinians in East Jerusalem and Area C of the occupied West Bank are not denied access to, or discriminated against in the provision of, essential services, including electricity, water and sanitation, and natural resources, including land for agricultural purposes;

(f) Remove immediately all mines and minefields in the occupied Syrian Golan, which pose a risk to the local civilian population.